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Acting Executive

28 Jamer: 1949

Compral Counsel

Louve Regulations

- 1. We believe that the memorandian of the Personnel Officer, dated 27 January, presents a fair picture of a practical situation. We, however, approach the problem on a slightly different basis.
- 2. We feel that although a right may not in putatice be on orsed by the individuals concerned, it is, ribus the less, a wight so long as it remains on the statute books. as prosently worded. We believe, therefore, thek the right to Leeve under the Act of Barch 14, 1986, as amended (5 U.S.C. 30 B) is challute. The Civil Berrice Commission appears to agree to the extent that an employee, theoretically, has recourse to the Court of Claims if the matter were brought to an issue. If our interpretation is correct (and we believe the Comptroller General's Opinions support us), the further words of the statute that such leave shall be granted at much times as the heads of establishments may proseribe, give a control, but also impose a duty to see that such times are prescribed. It would obviously be an administrative absurdity to let a situation arise wideh would give grounds for possible action in the Court of Claims, when such a situation is conly avoided.
- or offices to ask their employees when they would profer to take leave, and after the employees when they would profer to take leave, and after the employees wishes are known, the administrative officers set up leave schedules. Such a procedure would normally eliminate any difficulty under the Act. If an employee refuses to specify a time, he can be ordered on leave at a time convenient to the Covernment. This Agency follows the normal Covernment practice of encouraging the taking of leave. Once the time for leave has been set, the Government's duty has been completed (anless, of course, it changes its plans before leave is believe). They if the employee its plans before leave as specified he relies and right to claim leave at a different time under the Act, as this in clearly the type of protection which the employee is tree to make for reasons of his own.

would arise where an employee came to the last 26 working days of the year without asking for leave, being directed to take leave, or, by one measure or another, waiving leave. But if this specific situation areas, we still believe that the employee has a right to take those 26 days as annual leave, and that, even if it were administratively disapproved, and, possibly, pay were withheld by the Comptroller General, he could recover, in the Court of Claims, the arount of withheld pay and would be entitled to continue his same employment without being subject to any technical charge of missessance.

LAWRINGE R. HOUSTOR.

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